REMARKS/ARGUMENTS

Favorable consideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-20 are pending, with Claims 1, 4, 5, 11-13, 16, 17, and 20 amended by the present amendment.

In the Official Action, Claims 1, 2, 4-6, 11-14, 16 and 20 were rejected under 35 U.S.C. § 102(e) as being anticipated by Natarajan et al. (U.S. Patent No. 6,505,244, hereinafter Natarajan); Claims 3 and 7-10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Natarajan in view of Evans (U.S. Patent No. 5,694,524) and Yates et al. (U.S. Patent No. 6,330,586, hereinafter Yates); and Claims 15 and 17-19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Natarajan, Evans and Yates.

Claims 1, 4, 5, 11-13, 16, 17, and 20 are amended to more clearly describe and distinctly claim Applicants' invention. Support for these amendments is found in Applicants' originally filed specification.[1]

Natarajan describes a feedback-based adaptive network wherein at least a portion of the network elements report operating information relating to network conditions to a centralized data store. The information which is reported to the data store is analyzed by a policy engine which includes a plurality of application specific plug-in policies for analyzing selected information from the data store and for computing updated control information based upon the analysis of the information. The updated control information is fed back to selected network elements to thereby affect operation of the selected elements.[2]

Figures 16-18 of Natarajan provide an illustrative example of how various network elements interact with each other to form a feedback-based adaptive network. In particular, Figure 17 shows a flow diagram of how the feedback-based network of Figure 16 adapts to

[1] Specification, page 7, line 25 through page 8, line 25; Figure 3.
[2] Natarajan, Abstract.

changing conditions in the network as a video conference is initiated between user 1 and user 2. A video conference application between user 1 and user 2 is one example of a user application which may require additional bandwidth in order to provide a satisfactory level quality for using the application to service multiple users across the network. Thus, the video conference example may be abstracted to be applied to any user application requiring additional network resources to provide a satisfactory level of quality for the application to run over a network environment. When a video conference begins between users 1 and 2, the network may respond by initiating one or more bandwidth policies at the policy engine 1654 and may also respond by initiating one or more policies/procedures at the monitor system 1662. Thus, at 1704 the frame relay CIR policy is initiated at the policy engine 1654 if this policy has not already been initiated. While the frame relay CIR policy is being initiated by the policy engine at 1704, a CIR policy monitor procedure is concurrently initiated (1716) at monitor system 1662, if this procedure has not already been initiated. At 1706, each of the links a, b, c, d of Figure 16 reports the number of packets dropped on that link to data storage 1652. The frame relay CIR policy at the policy engine 1654 uses this data to generate (1708) updated CIR parameter values for each of the respective links. The updated CIR parameter values generated by the policy engine are then written (1710) into the data store 1652. Once the appropriate network elements have been notified of changed network conditions, each of the network elements may retrieve a respective updated CIR parameter information from the data store 1652 and then update its configuration using the updated CIR parameter information.[3]

However, Natarajan fails to disclose or suggest use of a call history table and vendor/model identification information as recited in amended Claim 1, 11 and 20. MPEP § 2131 notes that "[a] claim is anticipated only if each and every element as set forth in the

[3] Natarajan, column 29, line 36 through column 30, line 66.

claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "When a claim covers several structures or compositions, either generically or as alternatives, the claim is deemed anticipated if any of the structures or compositions within the scope of the claim is known in the prior art." *Brown v. 3M*, 265 F.3d 1349, 1351, 60 USPQ2d 1375, 1376 (Fed. Cir. 2001) (claim to a system for setting a computer clock to an offset time to address the Year 2000 (Y2K) problem, applicable to records with year date data in "at least one of two-digit, three-digit, or four-digit" representations, was held anticipated by a system that offsets year dates in only two-digit formats). See also MPEP § 2131.02. "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Because Natarajan does not disclose or suggest all the features recited in Claims 1, 11 and 20, Natarajan does not anticipate the invention recited in Claims 1, 11 and 20, and all claims depending therefrom.

Applicants have considered Yates and Evans and submit these references do not cure the deficiencies of Natarajan. As none of the cited prior art, individually or in combination, disclose or suggest all the elements of independent Claims 1, 11 and 20, Applicants submit the inventions defined by Claims 1, 11 and 20, and all claims depending therefrom, are not rendered obvious by the asserted references for at least the reasons stated above.[4]

[4] MPEP § 2142 "...the prior art reference (or references when combined) must teach or suggest **all** the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

Accordingly, in view of the present amendment and in light of the previous discussion, Applicants respectfully submit that the present application is in condition for allowance and respectfully request an early and favorable action to that effect.

Respectfully submitted,

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